

STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
Land Division
Honolulu, Hawaii 96813

October 28, 2011

Board of Land and Natural Resources
State of Hawaii
Honolulu, Hawaii

PSF No.: 10KD-180 (14-23-7391)
PSF No.: 10KD-182 (14-23-7395)
PSF No.: 10KD-186 (14-23-7393)

Kauai

After-The-Fact Issuance of Right-of-Entry Permit For Dam Maintenance and Remediation Improvements To:

Jennings Pacific, LLC on Lands Encumbered by General Lease S-5660 to William J. Sanchez Sr. For Upper Kapahi Reservoir, DAGS Job No. 14-23-7391, Waipouli, Kawaihau, Kauai; TMK: (4) 4-4-004: 004 and 051,

Earthworks Pacific, Inc. on Lands Encumbered by Revocable Permit S-7448 to William J. Sanchez Sr., For Hanamaulu Field 21 Reservoir, DAGS Job No. 14-23-7395, Wailua, Lihue, Kawaihau, Kauai; TMK: (4) 3-9-002: Portion Parcel 20 and Lands Encumbered by Revocable Permit S-7453 to Kapaa Banana Company Inc., Aahoaka Reservoir, DAGS Job No. 14-23-7393, Wailua, Lihue, Kawaihau, Kauai; TMK: (4) 3-9-002: Portion Parcel 01

APPLICANT:

Jennings Pacific, LLC a Domestic Limited Liability Company

Earthworks Pacific, Inc. a Domestic Profit Corporation

LEGAL REFERENCE:

Sections 171-55, Hawaii Revised Statutes, as amended.

LOCATION:

General Lease S-5660, portion of Government lands of Waipouli situated at Kapaa, Kawaihau, Kauai, identified by Tax Map Key: (4) 4-4-004: 04 & 51, as shown on the attached map labeled Exhibit A.

Revocable Permit S-7453 and S-7448, portion of Government lands of Wailua and Lihue situated at Kawaihau, Kauai, identified by Tax Map Key: (4) 3-9-002: portion 01, as shown on the attached map labeled Exhibit B.

Revocable Permit S-7448, portion of Government lands of Wailua and Lihue situated at Kawaihau, Kauai, identified by Tax Map Key: (4) 3-9-002: portion 20, as shown on the attached map labeled Exhibit B.

AREA:

General Lease S-5660 = 33.93 acres, more or less.
Revocable Permit S-7453 = 628 acres, more or less.
Revocable Permit S-7448 = 619 acres, more or less.

ZONING:

State Land Use District: Agriculture
County of Kauai CZO: Agriculture

TRUST LAND STATUS:

Section 5(b) lands of the Hawaii Admission Act

DHHL 30% entitlement lands pursuant to the Hawaii State Constitution: YES

CURRENT USE STATUS:

Encumbered by General Lease S-5660 to William J. Sanchez Sr., Lessee, Solely for Pasture purposes. Lease to expire on August 28, 2022.

Encumbered by Revocable Permit S-7448 to William J. Sanchez Sr., Permittee, Pasture purposes.

Encumbered by Revocable Permit S-7453 to Kapaa Banana Company Inc., Permittee, for Intensive agriculture, pasture and accessory purposes.

CHARACTER OF USE:

Dam Maintenance and Remediation Improvements purposes.

TERM OF RIGHT-OF-ENTRY:

Upper Kapahi Reservoir, DAGS Job No. 14-23-7391

Hanamaulu Field 21 Reservoir, DAGS Job No. 14-23-7395

Aahoaka Reservoir, DAGS Job No. 14-23-7393

CONSIDERATION:

Gratis.

CHAPTER 343 - ENVIRONMENTAL ASSESSMENT:

In accordance with Hawaii Administrative Rule Sections 11-200-8(a)(1) & (4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment pursuant to Exemption Class No. 1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment, or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No. 4, that states "Minor alteration in the conditions of land, water, or vegetation."

DCCA VERIFICATION:

Jennings Pacific, LLC a Domestic Limited Liability Company

Place of business registration confirmed: YES
Registered business name confirmed: YES
Applicant in good standing confirmed: YES

Earthworks Pacific, Inc. a Domestic Profit Corporation

Place of business registration confirmed: YES
Registered business name confirmed: YES
Applicant in good standing confirmed: YES

APPLICANT REQUIREMENTS:

Applicant shall be required to:

- 1) Obtain written concurrence from all users of the subject land.

REMARKS:

Governor's Executive Order 4328 signed by Governor Linda Lingle on August 24, 2010 to Agribusiness Development Corporation agriculture and related purposes included Aahoaka Reservoir and Hanamaulu Field 21 Reservoir.

Because the dam maintenance and remediation improvement was implemented before the execution of Executive Order 4328. Department of Land and Natural Resources, Land Division continues to manage the construction project of both reservoirs. This also included the Upper Kapahi Reservoir covered under Revocable Permit S-7310 to the East Kauai Water User Cooperation.

The Department of Accounting and General Services has implemented Dam Maintenance and Remediation Improvements for the Upper Kapahi Reservoir, Aahoaka Reservoir and Hanamaulu Field 21 Reservoir.

The Jennings Pacific, LLC is presently in construction of the Upper Kapahi Reservoir dam improvements. General Lease S-4660 abuts the west and south side of Upper Kapahi Reservoir and portion of General Lease S-4660 will be used for a temporary bypass road while constructing the new spillway.

Earthworks Pacific, Inc. is presently constructing the Aahoaka Reservoir dam improvements and has not begun any work on the Hanamaulu Field 21 Reservoir. Both projects will require access over Revocable Permit S-7453 to Kapaa Banana Company Inc. to get to the Aahoaka Reservoir and Revocable Permit S-7448 to William J. Sanchez Sr., to get to the Hanamaulu Field 21 Reservoir.

Staff inadvertently failed to request right-of-entry from the Board to allow the Contractor to access the subject properties encumbered by General Lease S-5660 to William J. Sanchez Sr., Lessee, Revocable Permit S-7448 to William J. Sanchez Sr., Permittee and Revocable Permit S-7453 to Kapaa Banana Company Inc., Permittee.

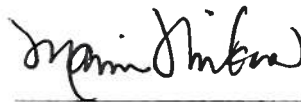
This project involves improvement to lands under the ownership of the State of Hawaii. Staff recommends that this right-of-entry be gratis.

RECOMMENDATION: That the Board

1. Declare that, after considering the potential effects of the proposed disposition as provided by Chapter 343, HRS, and Chapter 11-200, HAR, this project will probably have minimal or no significant effect on the environment and is therefore exempt from the preparation of an environmental assessment.


2. Authorize the issuance of a right-of-entry permit to Jennings Pacific, LLC on Lands Encumbered by General Lease S-5660 to William J. Sanchez Sr. For Upper Kapahi Reservoir, covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.
3. Authorize the issuance of a right-of-entry permit to Earthworks Pacific, Inc. on Lands Encumbered by Revocable Permit S-7448 to William J. Sanchez Sr., For Hanamaulu Field 21 Reservoir and Revocable Permit S-7453 to Kapaa Banana Company Inc., Aahoaka Reservoir covering the subject area under the terms and conditions cited above, which are by this reference incorporated herein and further subject to the following:
 - A. The standard terms and conditions of the most current right-of-entry permit form, as may be amended from time to time;
 - B. Such other terms and conditions as may be prescribed by the Chairperson to best serve the interests of the State.

Respectfully Submitted,

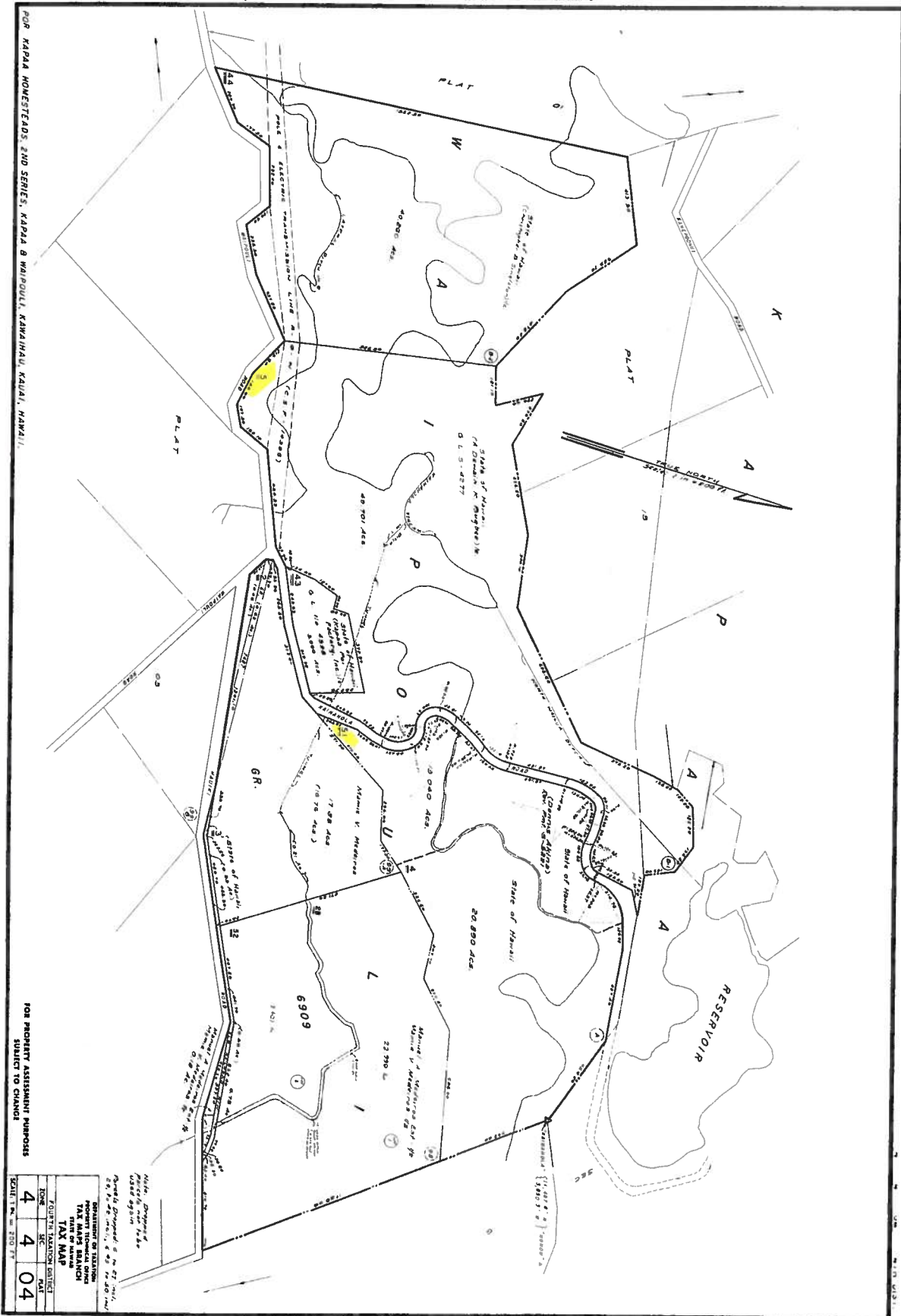


cc: Tommy Oi
Kauai District Land Agent

APPROVED FOR SUBMITTAL:



W for William J. Aila, Jr., Chairperson



FOR PROPERTY ASSESSMENT PURPOSES

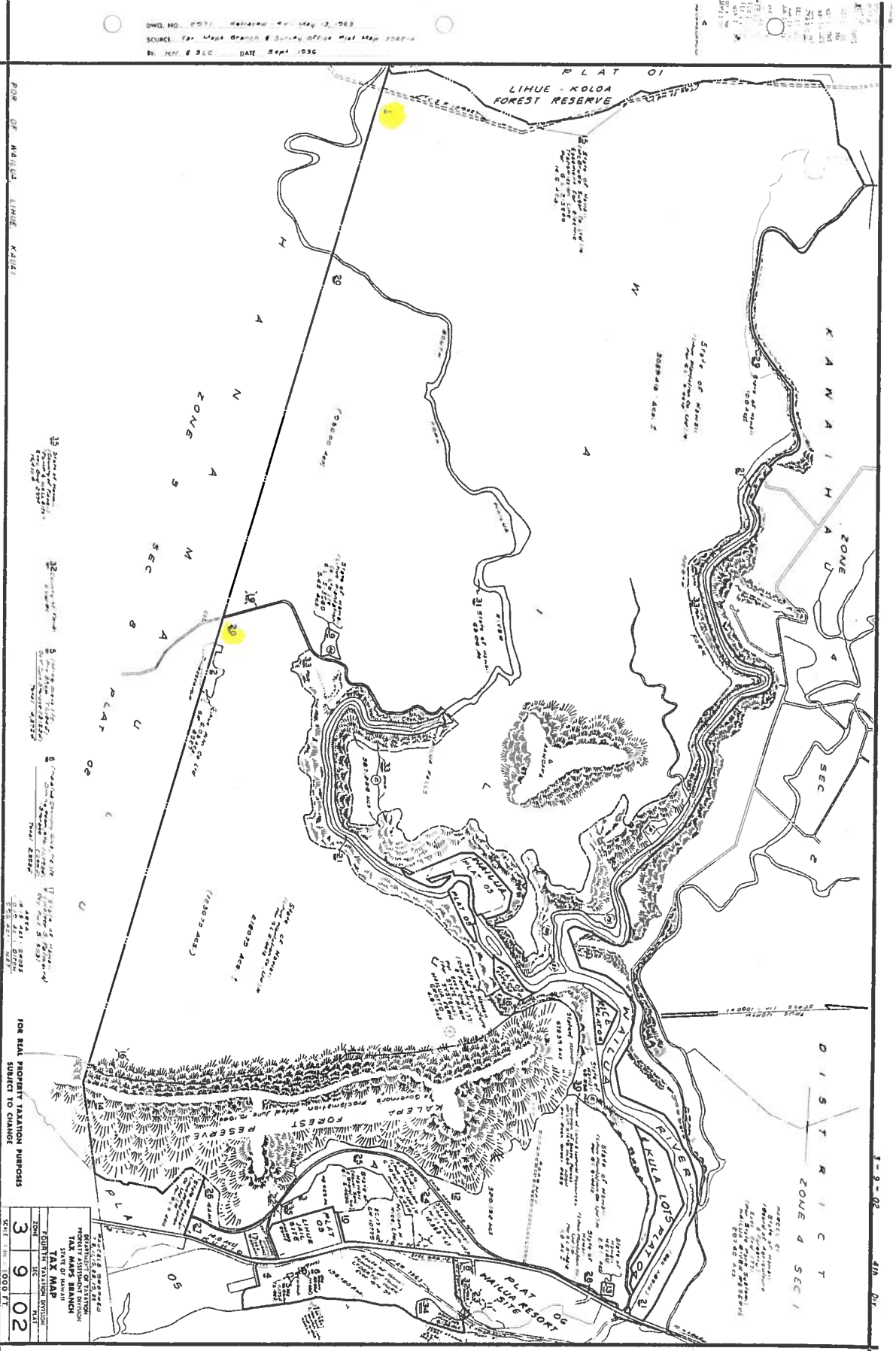
SUBJECT TO CHANGE

DEPARTMENT OF TAXATION PROPERTY TECHNICAL OFFICE TAX MAPS BRANCH STATE OF NEW HAMPSHIRE TAX MAP		
FOURTH TAXATION DISTRICT		
ZONE	S.C.	PAR
4	4	04

SCALE: 1" = 250' FT

EXHIBIT "A"

DWG. NO. 2077, Prepared by May 13, 1933
 SOURCE: For Maps Branch & Survey Office Map Series
 BY: K.M. & S.C. DATE: Sept. 1936



FOR REAL PROPERTY TAXATION PURPOSES	
SUBJECT TO CHANGE	
3	9
0	2
SCALE 1" = 1000 FT.	

EXHIBIT "B"



STATE OF HAWAII
DEPARTMENT OF LAND AND NATURAL RESOURCES
LAND DIVISION

POST OFFICE BOX 621
HONOLULU, HAWAII 96809

October 28, 2011

EXEMPTION NOTIFICATION

regarding the preparation of an environmental assessment pursuant to Chapter 343, HRS and Chapter 11-200, HAR


Project Title:	After-the-Fact Issuance of Right-of-Entry For Dam Maintenance and Remediation Improvements To: Jennings Pacific, LLC on Lands Encumbered by General Lease S-5660 to William J. Sanchez Sr. For Upper Kapahi Reservoir, DAGS Job No. 14-23-7391. Earthworks Pacific, Inc. on Lands Encumbered by Revocable Permit S-7448 to William J. Sanchez Sr., For Hanamaulu Field 21 Reservoir, DAGS Job No. 14-23-7395, Wailua, Lihue, Kawaihau, Kauai; TMK: (4) 3-9-002: Portion Parcel 20 and Lands Encumbered by Revocable Permit S-7453 to Kapaa Banana Company Inc., Aahoaka Reservoir, DAGS Job No. 14-23-7393
Project / Reference No.:	10KD-180, 182, 186
Project Location:	Waipouli, Kawaihau, Kauai; TMK: (4) 4-4-004: 004 and 051, and Wailua, Lihue, Kawaihau, Kauai; TMK: (4) 3-9-002: Portion Parcel 01
Project Description:	After-the-Fact Issuance of Right-of-Entry For Dam Maintenance and Remediation Improvements
Chap. 343 Trigger(s):	Use of State Unencumbered Land
Exemption Class No.:	In accordance with Hawaii Administrative Rule, Section 11-200-8(a)(1)(4) and the Exemption List for the Department of Land and Natural Resources approved by the Environmental Council and dated December 4, 1991, the subject request is exempt from the preparation of an environmental assessment


pursuant to Exemption Class No.1, that states "Operations, repairs or maintenance of existing structures, facilities, equipment or topographical features, involving negligible or no expansion or change of use beyond that previously existing" and Class No.4, that states "Minor alteration in the conditions of land, water, or vegetation".

The proposed activity has historically and routinely occurred and continues to occur on this and other areas across the State. Such activities have resulted in no known significant impact, whether immediate or cumulative, to the natural, environmental and/or cultural resources in the area. As such staff believes that the proposed event use would involve negligible or no expansion or change in use of the subject area beyond that previously existing.

Recommendation:

It is recommended that the Board find that this request will probably have minimal or no significant effect on the environment and is presumed to be exempt from the preparation of an environmental assessment.


for William J. Aila, Jr., Chairperson

 10.17.11
Date